



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,197	08/07/2000	Christopher W.B. Goode	DIVA 264	3493
26291	7590	08/13/2004	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/633,197

Applicant(s)

GOODE, CHRISTOPHER W.B.

Examiner

Son P Huynh

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5_6_</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.
claims 20-21 have been cancelled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "said remitted compensation" in 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2611

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 8-10, 13-15, 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (US 6,201,536).

Regarding claim 8, Hendricks teaches a method comprising:

assigning by the service provider to each of a plurality content providers (network manager 214 in the head end stores into file server 215 data received via inputs 235, 226, 224, 239, – figure 2, 5 and col. 10, lines 29-50), content management responsibilities for respective service provider (e.g. network manager manages the cable head end operation such as to retrieve file from file server 215 in response to receive user request, to request the program from operations center if the requested program is not stored in the file server, to insert advertisement into the program, etc. figures 2, 5 and col. 9, line 13-col. 10, line 16, col. 10, line 30-col. 12, line 67, col. 35, lines 5-20);

fulfilling subscriber requests for available content stored at the service provider location (request for available content in file server 215, col. 34, line 32-col. 35, line 20);

generating usage statistics (col. 26, line 47- col. 27-18 and figure 9) and

providing the usage statistical to the at least one content provider (the targeted

advertisement can be inserted at a remote location such as the operation center – col.

Art Unit: 2611

25, lines 10-20, col. 35, lines 5-20. Necessarily, the usage statistic is provided to content provider);

and adjusting the content stored in the leased resource according to the at least one content provider (col. 35, lines 5-20).

Regarding claim 9, Hendricks teaches generating service centric data; and adapting service operation according to the usage statistic and the service centric data (e.g. network manager manages the operations of the head end, inserts advertisement, generates the request for information from remote location such as server. Information is provided in response to command/request of the network manager/or statistic information from viewer, etc. col. 9, line 13-col. 10, line 15, col. 10, line 30-col. 11, line 67, col. 35, lines 5-20 and figures 2, 5, 9).

Regarding claim 10, Hendricks teaches generating content centric data (date/time, category, etc. of the request); and providing the content centric data to the at least one content provider (figure 9 and col. 8, lines 10-54, col. 25, lines 15-20, col. 35, lines 5-20).

Regarding claim 13, Hendricks teaches apparatus coupled to a plurality of subscribers and to content suppliers (figures 2, 5), the apparatus comprising:
a controller (e.g. sources or network controller – figures 2, 5) for distributing video assets; and

Art Unit: 2611

a server complex (head end 208— figures 2, 5) comprising a plurality of partitions (in file server 215, database 262 – figures 3a-3b), each of the partitions storing video assets provided by a respective content suppliers (the server stores video data from advertisement source, ATM source, local feeds source, etc. col. 10, line 30- col. 11, line 13);

the content supplier adapting content, including video assets, stored in the respective partitions in response to usage data provided by the controller (col. 35, lines 5-20).

Regarding claim 14, Hendricks teaches the content suppliers provision respective server complex partitions according to rules defined by the controller (e.g. provide data in response to the request from network manager – col. 35, lines 5-20).

Regarding claim 15, Hendricks discloses the network manager provides requested data, provided by the sources, to user in response to the request, suggest program to user according to user's mood (col. 11, lines 1-12, col. 20, lines 25-62, col. 35, line 5-col. 36, line 30). Inherently, the rules define at least one of a navigation parameter, a promotion parameter and a packaging parameter of the video asset provided by the content suppliers.

Regarding to claim 18, Hendricks teaches the content supplier adapt the content stored in the respective partitions in response to content centric data provided by the controller (col. 35, lines 5-20, figure 9).

Regarding claim 19, Hendricks discloses the network manager retrieved requested program from file server and provides to the user. If the request program is not stored in the file server, the network manager requests the requested program from operation center and provides to file server for relaying to the subscriber (col. 18, line 1- col. 19, line 36, col. 35, lines 5-20). As a result, the partition is responsively increased or decreased in size in response to the usage data.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7, 11-12, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US 6,201,536), and in view of Lewis (US 2003/0040962 A1).

Regarding claim 1, Hendricks teaches a method comprising:
establishing by the service provider a resource with each of at least one content provider (network manager 214 in the head end stores into file server 215 data received

via inputs 235, 226, 224, 239, – figure 2, 5 and col. 10, lines 29-50), each content provider storing content within the resource at at least one service provider location (file server 215, col. 10, lines 29-50);

fulfilling subscriber requests for available content stored at the service provider location (request for available content in file server 215, col. 34, line 32-col. 35, line 20);

generating usage statistics (col. 26, line 47- col. 27-18 and figure 9);

providing the usage statistical to the at least one content provider (the targeted advertisement can be inserted at a remote location such as the operation center – col. 25, lines 10-20, col. 35, lines 5-20);

and adjusting the content stored in the leased resource according to the at least one content provider (col. 35, lines 5-20). However, Hendricks does not specifically disclose the resource is leased.

Lewis teaches a leased resource in VPR/DMS (par. 0186). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks to use the teaching as taught by Lewis in order to efficient use of resource.

Regarding claim 2, Hendricks teaches generating service centric data; and adapting service operation according to the usage statistic and the service centric data (e.g. network manager manages the operations of the head end, inserts advertisement, generates the request for information from remote location such as server. Information is provided in response to command/request of the network manager/or statistic

information from viewer, etc. col. 9, line 13-col. 10, line 15, col. 10, line 30-col. 11, line 67, col. 35, lines 5-20 and figures 2, 5, 9).

Regarding claim 3, Hendricks teaches generating content centric data (date/time, category, etc. of the request); and providing the content centric data to the at least one content provider (figure 9 and col. 8, lines 10-54, col. 25, lines 15-20, col. 35, lines 5-20).

Regarding claim 4, Hendricks in view of Lewis teaches a method as discussed in the rejection of claim 1. Lewis further discloses advertising "sections" or "spaces" or "data boxes" in VPR/DMS 30 are monitored and controlled by both content providers (or VPR/DMS 30 central data base) as well as by end users according to pre-set or negotiable criteria. Advertising "sections", "data boxes" or "spaces" may be reserved, rented, leased, or purchased from end user, content providers, etc. – paragraph 0186 +). The VPR/DMS is capable of electronically monitoring and logging all rental, purchase, or pay per view transactions as well as end user access operation (i.e. playbacks, downloads, etc.) of data programs and products which are copyrighted, patented, licensed or otherwise represent propriety intellectual property. This electronically logged data might then be automatically transmitted or retrieved by content providers or by copyrighted collective organization for collection of licensing fees or other purpose (paragraphs 0207-0209 and 0260). Necessarily, the method

Art Unit: 2611

comprises remitting compensation to the at least one content provider in response to the usage statistic.

Regarding claim 5, Hendricks in view of Lewis teaches a method as discussed in the rejection of claim 4. However, neither Hendricks nor Lewis specifically discloses remitted compensation is offset by the value of the lease. Official Notice is taken that offsetting remitted compensation by the value of the lease is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks and Lewis to use the well-known teaching in the art in order to reduce transaction between providers.

Regarding claim 6, Hendricks in view of Lewis teaches a method as discussed in the rejection of claim 1. Hendricks further teaches the “leased” resource is adapted in response to the usage statistics (col. 35, lines 5-20).

Regarding claim 7, Hendricks discloses the network manager retrieved requested program from file server and provides to the user. If the request program is not stored in the file server, the network manager requests the requested program from operation center and provides to file server for relaying to the subscriber (col. 18, line 1- col. 19, line 36, col. 35, lines 5-20). As a result, the “leased” resource comprises a memory resource that is increased or decreased in size in response to the usage data.

Regarding claim 11, Hendricks teaches a method as discussed in the rejection of claim 8. However, Hendricks does not specifically disclose remitting compensation.

Lewis discloses advertising “sections” or “spaces” or “data boxes” in VPR/DMS 30 are monitored and controlled by both content providers (or VPR/DMS 30 central data base) as well as by end users according to pre-set or negotiable criteria. Advertising “sections”, “data boxes” or “spaces” may be reserved, rented, leased, or purchased from end user, content providers, etc. – paragraph 0186 +). The VPR/DMS is capable of electronically monitoring and logging all rental, purchase, or pay per view transactions as well as end user access operation (i.e. playbacks, downloads, etc.) of data programs and products which are copyrighted, patented, licensed or otherwise represent propriety intellectual property. This electronically logged data might then be automatically transmitted or retrieved by content providers or by copyrighted collective organization for collection of licensing fees or other purpose (paragraphs 0207-0209 and 0260). Necessarily, the method comprises remitting compensation to the at least one content provider in response to the usage statistic. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Hendricks to use the teaching as taught by Lewis in order to simplify the transmission.

Regarding claim 12, the limitations as claimed correspond to the limitations as claimed in claims 5, and are analyzed as discussed with respect to the rejection of claim 5.

Regarding claim 16, Hendricks teaches an apparatus as discussed in the rejection of claim 13. However, Hendricks does not specifically disclose the resource is leased. Lewis teaches a leased resource in VPR/DMS (par. 0186). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks to use the teaching as taught by Lewis in order to efficient use of resource.

Regarding claim 17, Lewis discloses the "sections" or "spaces" or "data boxes" in storage device may be rented, leased, or purchased from content providers, broadcaster, etc. (par. 186). However, neither Hendricks nor Lewis specifically discloses server complex partitions are auctioned to content suppliers. Official Notice is taken that auctioning partitions to supplier is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks and Lewis to use the well-known teaching in the art in order to provide a maximize price for the lease.

8. Claims 1, 4, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US 6,201,536), and in view of Chernock et al. (US 6,772,209).

Regarding claim 1, Hendricks teaches a method comprising:
establishing by the service provider a resource with each of at least one content provider (network manager 214 in the head end stores into file server 215 data received

Art Unit: 2611

via inputs 235, 226, 224, 239, – figure 2, 5 and col. 10, lines 29-50), each content provider storing content within the resource at at least one service provider location (file server 215, col. 10, lines 29-50);

fulfilling subscriber requests for available content stored at the service provider location (request for available content in file server 215, col. 34, line 32-col. 35, line 20);

generating usage statistics (col. 26, line 47- col. 27-18 and figure 9);

providing the usage statistical to the at least one content provider (the targeted advertisement can be inserted at a remote location such as the operation center – col. 25, lines 10-20, col. 35, lines 5-20);

and adjusting the content stored in the leased resource according to the at least one content provider (col. 35, lines 5-20). However, Hendricks does not specifically disclose the resource is leased.

Chernock teaches establishing by a service provider (user's cable company) a resource lease with each of at least one content provider (various advertisers-col. 7, lines 38-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks to use the teaching as taught by Chernock in order to efficient use of resource.

Regarding claim 4, Hendricks in view of Chernock teaches a method as discussed in the rejection of claim 1. However, neither Hendricks nor Chernock specifically discloses remitting compensation to the content provider. Office Notice is taken that remitting compensation is well known in the art. Therefore, it would have been obvious to one of

Art Unit: 2611

ordinary skill in the art at the time then invention was made to modify Hendricks and Chernock with a well-known teaching in the art in order to motivate the usage of data.

Regarding claim 16, Hendricks teaches an apparatus as discussed in the rejection of claim 13. However, Hendricks does not specifically disclose the server complex partitions are leased by the content suppliers.

Chernock teaches the partitions are leased by content suppliers (leased by various advertisers- col. 7, lines 38-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks to use the teaching as taught by Chernock in order to efficient use of resource

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Downs et al. (US 6,249,836) teaches method and apparatus for providing remote processing of a task over a network.

Hendricks et al. (6,539,548 B1) teaches operations center for a television program packaging and delivery system.

Wachob (5,155,591) teaches method and apparatus for providing demographically targeted television commercials.

Henderson et al. (US 5,719,983) teaches method and apparatus for placement of video data based on disk zones.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son P. Huynh
February 3, 2003



VIVEK SRIVASTAVA
PRIMARY EXAMINER